

The Honorable Thomas T. Glover
Chapter 7
Hearing Date: _____ 2010
Hearing time: 9:30 a.m.
Response date: _____, 2010

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

In re

INMEDIARES PRODUCTIONS, LLC
dba CATALYST GAME LABS,

Debtor.

Case No. 10-14343-TTG

MOTION FOR ENTRY OF ORDER FOR
RELIEF IN INVOLUNTARY PROCEEDING

Petitioning Creditors Jean-Philippe Sugarbroad, Paul H. Stansel, and Wildfire LLC, through their counsel Karr Tuttle Campbell, move the court pursuant to 11 U.S.C. § 303(h), as supported by the Declaration of Diana K. Carey, for entry of an Order for Relief against Inmediare Productions, LLC d/b/a/ Catalyst Game Labs, as follows:

1. Each of the three Petitioning Creditors has signed the Involuntary Petition under penalty of perjury requesting an order for relief against Inmediare Productions, LLC d/b/a/ Catalyst Game Labs “Catalyst”), and those undisputed noncontingent claims total more than \$13,475. The petitioners are eligible pursuant to 11 U.S.C. § 303(b), and their claims are not contingent nor subject to a bona fide dispute.

MOTION FOR ENTRY OF ORDER FOR RELIEF -

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#752578 v1 / 40556-001

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1 2. The Involuntary Petition was filed on April 19, 2010. It alleged that Catalyst was
2 a person against whom an order for relief may be entered, that the debtor was not generally
3 paying its debts as they became due.
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5 3. The Summons to Debtor in Involuntary Case was issued April 20, 2010, and
6 according to the Declaration of Service on file (Dkt #3), was mailed "regular" and "certified" to
7 both the debtor's principals and its registered agent on April 21, 2010. Petitioning creditors'
8 counsel has on file two signed receipts from the certified mail, both of which are dated April 22,
9 2010.
10

11 4. The Debtor's answer was due, therefore, either May 12, 2010, or at least May
12 14, 2010 (21 days after receipt of service).
13

14 5. On May 17, 2010, as the Petitioning Creditors were about to file their Motion
15 for Default, Debtor submitted an Answer and Affirmative Defenses (Dkt #4, filed at 15:32).
16 Debtor did not move for leave to answer out of time.
17

18 ARGUMENT

19 Section 303 of the Bankruptcy Code states in the most plain language that "[i]f the
20 petition is not timely controverted, the court *shall* order relief against the debtor." 11 U.S.C. §
21 303(h) (emphasis supplied). See Marvin J. Dahl v. Ross Key (in re Ross Key), 209 B.R. 737
22 (10th Cir. BAP 1997). Rule 1013 of the Federal Rules of Bankruptcy Procedure also provides
23 that "[I]f no pleading or other defense to a petition is filed within the time provided by rule
24 1011, the court, on the next day, or as soon thereafter as practicable, shall enter an order for the
25 relief requested in the petition." Fed. R. Bankr. P. 1013(b) (emphasis supplied).
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1 Likewise, Collier on Bankruptcy provides:

2 The debtor... must answer the involuntary petition in accordance with
3 Federal Rule of Bankruptcy Procedure 1011(b). Importantly, section 303(h)
4 provides that if a petition is not timely controverted, the order for relief will be
5 entered.

6 This means that if an answer is not timely filed, the party filing the answer
7 may be estopped from contesting the involuntary petition at a later date.” 2
8 Collier on Bankruptcy ¶ 303.1310[3] (15th ed. rev. 1997).

9 There is no question that Catalyst’s answer was not timely. Since Catalyst did not
10 respond or answer timely, on the 22nd day after service of the summons it was the Bankruptcy
11 Court’s obligation to promptly enter the order for relief. In re Ross Key, 209 B.R. 739.
12 Catalyst should be estopped from contesting the involuntary petition.

13 The Petitioning Creditors therefore respectfully request that the court enter the order for
14 relief.
15

16 DATED this 18th day of May 2010.

17 KARR TUTTLE CAMPBELL

18 /s/ Diana K. Carey

19 By: _____
20 Diana K. Carey, WSBA # 16239
21 Attorneys for Petitioning Creditors
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